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SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: POVERTY AND THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Statement adopted by the Committee on Economic, Social and Cultural Rights on 4 May 2001

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UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

Telefax: (41-22)-9179022
Telegrammes UNATIONS, GENEVE
Telex: 41 29 62
Telephone: (41-22)9179278
Internet: www.unhchr.ch
E-mail: marambulo.hchr@unog.ch

Address:
Palais des Nations
CH-1211 GENEVE 10

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Dear Mr. Ricupero,

On behalf of the Committee on Economic, Social and Cultural Rights, I have the honour of transmitting to you the Statement on poverty adopted by the Committee on 4 May 2001, for submission to the Third UN Conference on the Least Developed Countries, to take place in Brussels from 14 to 20 May, 2001.

The statement aims to encourage the integration of human rights into poverty eradication policies by outlining how human rights generally, and the Covenant in particular, can empower the poor and enhance anti-poverty strategies.
I express the hope that the Conference will be successful, and that the Committee's Statement will contribute towards that goal.

Please accept the assurance of my highest consideration.

Yours sincerely,

Virginia Bonoan Dandan
Chairperson of the Committee on
Economic, Social and Cultural Rights

Mr. Rubens Ricupero
Secretary-General
UN Conference on Trade and Development
Palais des Nations
1211-CH Geneva 10

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: POVERTY AND THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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1. In 1948, the Universal Declaration of Human Rights established that poverty is a human rights issue.[1] This view has been re-affirmed on numerous occasions by various United Nations bodies, including the General Assembly and Commission on Human Rights.[2] Although the term is not explicitly used in the International Covenant on Economic, Social and Cultural Rights,[3] poverty is one of the recurring themes in the Covenant and has always been one of the central concerns of the Committee. The rights to work, an adequate standard of living, housing, food, health and education, which lie at the heart of the Covenant, have a direct and immediate bearing upon the eradication of poverty. Moreover, the issue of poverty frequently arises in the course of the Committee's constructive dialogue with States parties. In the light of experience gained over many years, including the examination of numerous States parties' reports, the Committee holds the firm view that poverty constitutes a denial of human rights.

2. Accordingly, the Committee warmly welcomes the renewed commitment of a number of States and international organizations to the policy objective of poverty eradication, as well as related policy goals such as the elimination of social exclusion. The Committee regrets, however, that the human rights dimensions of poverty eradication policies rarely receive the attention they deserve. This neglect is especially regrettable because a human rights approach to poverty can reinforce anti-poverty strategies and make them more effective.

3. The present statement is aimed at encouraging the integration of human rights into poverty eradication policies by outlining how human rights generally, and the Covenant in particular, can empower the poor and enhance anti-poverty strategies. It is not sought in this statement to formulate a detailed anti-poverty programme or plan of action, but to identify concisely the distinctive contribution of international human rights to poverty eradication. The preparation of operational anti-poverty programmes is a separate undertaking of the first importance which all actors should pursue as a matter of urgency and with due regard to international human rights.

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[1] The Preamble to the Universal Declaration of Human Rights, and the common Preamble to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights emphasize the importance of "freedom from ... want".

[2] For example, see General Assembly resolution 55/106 of 4 December 2000 and Commission on Human Rights resolution 2001/31 of 23 April 2001.

[3] The term "poverty" is not found in any of the major international human rights instruments. For a recent United Nations study of the links between human rights, development and poverty, see *Human Development Report 2000: Human Rights and Human Development*, UNDP.

The scale and nature of the problem

4. The President of the World Bank recently wrote: "[P]overty remains a global problem of huge proportions. Of the world's 6 billion people, 2.8 billion live on less than $2 a day, and 1.2 billion on less than $1 a day. Six infants of every 100 do not see their first birthday, and 8 do not survive to their fifth. Of those who do reach school age, 9 boys in 100, and 14 girls, do not go to primary school."[4] While statistics do not provide a complete understanding of poverty, these shocking figures signify massive and systemic breaches of the Universal Declaration of Human Rights and the two International Covenants, as well as of the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and other international human rights instruments.

5. Poverty is not confined to developing countries and societies in transition, it is a global phenomenon experienced in varying degrees by all States. Many developed States have impoverished groups, such as minorities or indigenous peoples, within their jurisdictions. Also, within many rich countries there are rural and urban areas where people live in appalling conditions – pockets of poverty amid wealth. In all States, women and girls bear a disproportionate burden of poverty, and children growing up in poverty are often permanently disadvantaged. In the Committee's view, the greater empowerment of women in particular is an essential precondition for the eradication of global poverty.

6. While the common theme underlying poor people's experiences is one of powerlessness,[5] human rights can empower individuals and communities. The challenge is to connect the powerless with the empowering potential of human rights. Although human rights are not a panacea, they can help to equalize the distribution and exercise of power within and between societies.

Definitions

7. In the recent past, poverty was often defined as insufficient income to buy a minimum basket of goods and services. Today, the term is usually understood more broadly as the lack of basic capabilities to live in dignity. This definition recognizes poverty's broader features, such as hunger, poor education, discrimination, vulnerability and social exclusion.[6] The Committee notes that this understanding of poverty corresponds with numerous provisions of the Covenant.

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[4] World Bank, *World Development Report 2000/2001: Attacking Poverty*, Oxford University Press.

[5] For example, see Deepa Narayan , *Voices of the Poor: Can Anyone Hear Us?*, published by the Oxford University Press for the World Bank, 2000.

[6] According to chapter II, entitled "Eradication of poverty", in the Programme of Action of the World Summit for Social Development (1995): "Poverty has various manifestations, including lack of income and productive resources sufficient to ensure sustainable livelihoods; hunger and malnutrition; ill health; limited or lack of access to education and other basic services; increased morbidity and mortality from illness; homelessness and inadequate housing; unsafe environments; and social discrimination and exclusion. It is also characterized by a lack of participation in decision-making and in civil, social and cultural life." (para. 19)

8. In the light of the International Bill of Rights, poverty may be defined as a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights. While acknowledging that there is no universally accepted definition, the Committee endorses this multi-dimensional understanding of poverty, which reflects the indivisible and interdependent nature of all human rights.

The international human rights normative framework.

9. International human rights provide a framework of norms or rules upon which detailed global, national and community-level poverty eradication policies can be constructed. While poverty raises complex multi-sectoral issues that are not amenable to simple solutions, the application of the international human rights normative framework to these issues helps to ensure that essential elements of anti-poverty strategies, such as non-discrimination, equality, participation and accountability, receive the sustained attention they deserve. In this context, the Committee wishes to highlight briefly three features of the international human rights normative framework.

10. *First*, the normative framework encompasses the entire range of civil, cultural, economic, political and social rights, and the right to development. While the rights enumerated in the Covenant, such as the right to an adequate standard of living, are of central importance to the poor, the Committee emphasizes that all civil and political rights, as well as the right to development, are also indispensable to those living in poverty.[7] Because of its mandate, expertise and experience, the Committee gives particular attention to the economic, social and cultural rights dimensions of anti-poverty strategies, but all rights are equally important as a means of ensuring that all people can live in freedom and dignity.

11. *Second*, non-discrimination and equality are integral elements of the international human rights normative framework, including the International Covenant on Economic, Social and Cultural Rights. Sometimes poverty arises when people have no access to existing resources because of who they are, what they believe or where they live. Discrimination may cause poverty, just as poverty may cause discrimination. Inequality may be entrenched in institutions and deeply rooted in social values that shape relationships within households and communities. Accordingly, the international norms of non-discrimination and equality, which demand that particular attention be given to vulnerable groups and individuals from such groups, have profound implications for anti-poverty strategies.

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[7] Consistent with part I, paragraph 5 of the Vienna Declaration and Plan of Action, adopted by the World Conference on Human Rights (1993): "All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis."

12. *Third*, the international human rights normative framework includes the right of those affected by key decisions to participate in the relevant decision-making processes. The right to participate is reflected in numerous international instruments, including the International Covenant on Economic, Social and Cultural Rights and the Declaration on the Right to Development.[8] In the Committee's experience, a policy or programme that is formulated without the active and informed participation of those affected is most unlikely to be effective. Although free and fair elections are a crucial component of the right to participate, they are not enough to ensure that those living in poverty enjoy the right to participate in key decisions affecting their lives.

13. In conclusion, anti-poverty policies are more likely to be effective, sustainable, inclusive, equitable and meaningful to those living in poverty if they are based upon international human rights. For this to occur, human rights need to be taken into account in all relevant policy-making processes.[9] Thus, there is a need for appropriately trained officials operating good processes that are informed by reliable, disaggregated data.

Obligations and accountability

14. The Covenant empowers the poor by granting them rights and imposing legal obligations on others, such as States. Critically, rights and obligations demand accountability: unless supported by a system of accountability, they can become no more than windowdressing. Accordingly, the human rights approach to poverty emphasizes obligations and requires that all duty-holders, including States and international organizations, are held to account for their conduct in relation to international human rights law. In its General Comment No. 9, the Committee remarks upon mechanisms of legal accountability for State parties. As for other duty-holders, they must determine which accountability mechanisms are most appropriate in their particular case. However, whatever the mechanisms of accountability, they must be accessible, transparent and effective.[10]

Core obligations: national and international responsibilities

15. According to the Covenant, the enumerated rights are subject to resource availability and may be realized progressively.[11] However, General Comment No.3, adopted in 1990, confirms that State parties have a "core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights" enunciated in the Covenant. As the Committee observes, without such a core obligation, the Covenant "would be largely

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[8] See article 13.1 of the International Covenant on Economic, Social and Cultural Rights and article 2.3 of the Declaration on the Right to Development.

[9] See statement of the Committee on Economic, Social and Cultural Rights to the Third Ministerial Conference of the World Trade Organization, Seattle, 30 November-3 December 1999 (E/C.12/1999/.9).

[10] For the Committee's remarks on the "Obligations of actors other than States parties" see, in particular, General Comment No. 13, part III and General Comment No. 14, part V; also General Comment No. 12, paras. 20 and 38-41.

[11] Article 2.1.

deprived of its raison d'etre".[12]

16. More recently, the Committee began to identify the core obligations arising from the "minimum essential levels" of the rights to food, education and health,[13] and it confirmed that these core obligations are "non-derogable".[14] In General Comment No.14, the Committee emphasizes that it is particularly incumbent on all those in a position to assist, to provide "international assistance and cooperation, especially economic and technical" to enable developing countries to fulfil their core obligations.[15] In short, core obligations give rise to national responsibilities for all States and international responsibilities for developed States, as well as others that are "in a position to assist".

17. Thus, the core obligations of economic, social and cultural rights have a crucial role to play in national and international developmental policies, including anti-poverty strategies. When grouped together, the core obligations establish an international minimum threshold that all developmental policies should be designed to respect. In accordance with General Comment No.14, it is particularly incumbent on all those who can assist, to help developing countries respect this international minimum threshold. If a national or international anti-poverty strategy does not reflect this minimum threshold, it is inconsistent with the legally binding obligations of the State party.

18. For the avoidance of any misunderstanding, the Committee wishes to emphasize three points. First, because core obligations are non-derogable, they continue to exist in situations of conflict, emergency and natural disaster. Second, because poverty is a global phenomenon, core obligations have great relevance to some individuals and communities living in the richest States. Third, after a State party has ensured the core obligations of economic, social and cultural rights, it continues to have an obligation to move as expeditiously and effectively as possible towards the full realization of all the rights in the Covenant.

Conclusion

19. The Committee strongly recommends the integration of international human rights norms into participatory, multi-sectoral national poverty eradication or reduction plans.[16] Such anti-poverty plans have an indispensable role to play in all States, no matter what their stage of economic development.

20. Non-State actors, including international organizations, national human rights institutions, civil society organizations and private businesses, also have heavy responsibilities in the struggle against poverty. Each should clearly identify how it can

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[12] General Comment No. 3, para. 10.
[13] General Comment Nos. 11, 13 and 14 respectively.
[14] General Comment No. 14, para. 47.
[15] General Comment No. 14, para. 45. The Covenant refers to "international assistance and cooperation", or similar formulations, in articles 2.1, 11.2, 15.4, 22 and 23.
[16] Such as those anticipated by the World Summit for Social Development (1995) and the more recent Enhanced Heavily Indebted Poor Countries Initiative. For a recent examination of national poverty eradication plans see UNDP, *Poverty Report 2000: Overcoming Human Poverty*.

contribute to poverty eradication, keeping in mind the human rights dimensions of poverty as outlined in this statement.

21. The Committee is deeply aware that there are structural obstacles to the eradication of poverty in developing countries. Through its various activities, including the reporting process and the adoption of general comments, the Committee attempts to assist developing States by identifying measures that they can and should take to address these obstacles. However, some of the structural obstacles confronting developing States' anti-poverty strategies lie beyond their control in the contemporary international order. In the Committee's view, it is imperative that measures be urgently taken to remove these global structural obstacles, such as unsustainable foreign debt, the widening gap between rich and poor, and the absence of an equitable multilateral trade, investment and financial system, otherwise the national anti-poverty strategies of some States have limited chance of sustainable success. In this regard, the Committee notes article 28 of the Universal Declaration of Human Rights, as well as the Declaration on the Right to Development, in particular article 3.3.[17]

22. So far as its resources and other responsibilities permit, the Committee continues to prepare additional general comments that clarify the normative content of economic, social and cultural rights, including their core obligations, and it invites all parties to assist in this important and challenging task.

23. Conscious of their far-reaching importance, the Committee confirms its willingness to discuss the issues identified in this statement with all those committed to the eradication of poverty.

Adopted on 4 May 2001

[17] Article 28 of the Universal Declaration of Human Rights: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized." Article 3.3 of the Declaration on the Right to Development: "States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development."